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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/561,434 | 12/08/2006 | Janos Feher | 1060-0162PUS1 | 6340 |

2292 7590 09/28/2007
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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| EXAMINER |
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HASAN, MOHAMMED A

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| ART UNIT | PAPER NUMBER |
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2873

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| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

09/28/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/561,434 | FEHER ET AL. | |
| | Examiner | Art Unit | |
| | Mohammed Hasan | 2873 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/19/05, 6/21/07</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Oath/Declaration

1. Oath and declaration filed on 12/19/2005 is accepted.

Information Disclosure Statement

2. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 12/19/2005 and 6/21/2007 have all been considered and made of record (note the attached copy of form PTO – 1449).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flom et al (3,992,087) in view of Weiss (4545658).

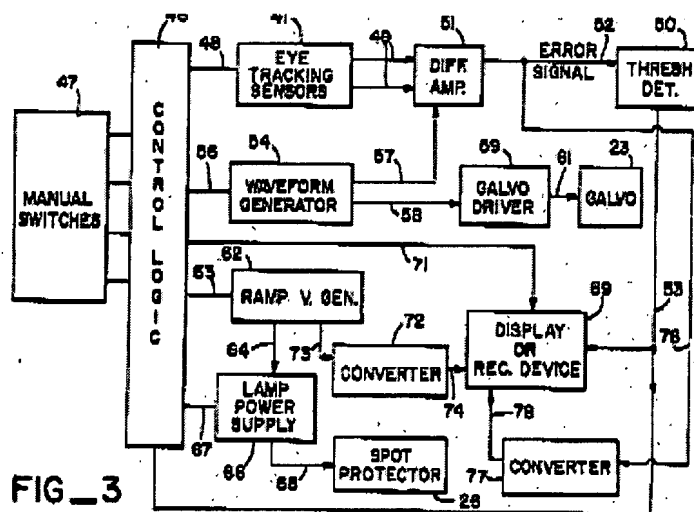
Regarding claim 8, Flom et al discloses (figures 3 and 4) process for examining the visual function of the eye, which comprises determining with the help of test images the visual function of the eye, then inducing photostress by illuminating the eye with an intense light (27), and further comprising using periodically moving test images for the

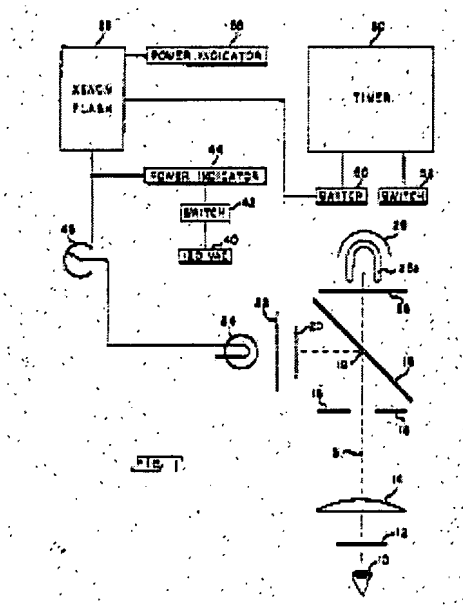
examination and determining the visual function on the basis of detecting (41) the phenomenon of optokinetic nystagmus (column 3, lines 1-50).

Flom discloses all of the claimed limitations except measuring the time needed for the recovery of the visual function before the illumination.

However, Weiss discloses measuring time timer 30 (column 3, line 25).

It would have been obvious to one of ordinary skill in the art the time invention was made to provide a timer in to the Flom visual examination apparatus for the purpose of standard photostress test to the human eye as taught by Weiss (column 2, lines 15-17).





Regarding claim 9, Weiss discloses process for examination the visual function of the eye which comprises determining the visual function of the eye, then inducing photostress by illuminating the eye with an intense light and measuring the time needed for the recovery of the visual function before the illumination further comprising using for the determination of the visual function measuring of critical fusion frequency (CFF) before and after the photostress (as shown in figure 1).

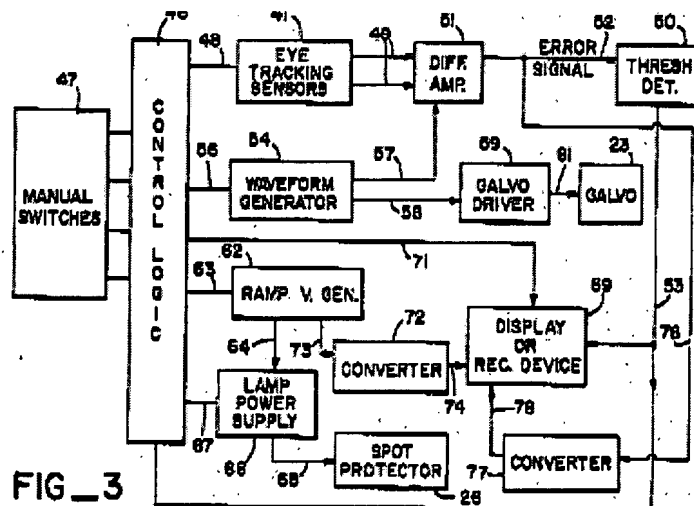
Regarding claim 10, Flom et al discloses (figures 3 and 4) apparatus for examining the visual features of the eye which comprises a light source suitable for illuminating a test image and inducing photostress , a test image that can be illuminated with the light source , an optical device projecting the light of the light source (27) and or the picture of the test image into the eye and, the apparatus having a test unit suitable for moving and changing test images and a measuring unit electrically connected to the test unit, which measuring unit contains a nystagometer sensing the movement of the eye and a display unit (69) (column 3, lines 1-51).

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a clock measuring the time examination and time measuring unit connected to it.

However, Weiss discloses measuring time timer 30 and clock (column 3, line 25).

It would have been obvious to one of ordinary skill in the art the time invention was made to provide a timer in to the Flom visual examination apparatus for the purpose of standard photostress test to the human eye as taught by Weiss (column 2, lines 15-17).



4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Braeuning (5,550,602) discloses an apparatus and method for examining visual function.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammed Hasan whose telephone number is (571) 272-2331. The examiner can normally be reached on M-TH, 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L Mack can be reached on (571) 272- 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MH
September 24, 2007

M. Hasan
Mohammed Hasan
Examiner, Au-2873